IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION No.8874 of 2004

Between:

1 Mangala Kartikeya, S/o. M.S. Subrahmanyam,
R/o. 16-3-758, II Line, Haranadhapuram,
Nellore District.
2 N. Ramesh Babu, S/o. Mariyanna,
R/o. 16/3/879, 2nd Street, Haranadha Puram,
Nellore District.
3 M. Gopal, S/o. Raghavaiah,
R/o. 16/3/879, 2nd Street, Haranadha Puram,
Nellore District.
4 M. Rajeswara Rao, S/o. Pinakapani,
R/o. 16/176, M.V. Agraharam, Achari Street,
Nellore District.

..... PETITIONERS

AND

1 The Registrar (Administration), High Court of A.P. Hyderabad.
2 The Principal District and Sessions Judge, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent in issuing two separate Notifications calling for the applications for the posts of L.D. Clerks, Typists and Bailiffs / Amins within one year is arbitrary, unreasonable and contrary to Clauses (c) and (d) of Annexure II of A.P. Judicial Ministerial Service Rules, 1964 and accordingly set aside the 2nd Notification No. 2/2003, dt. 30-10-2003 including the selection of the candidates made pursuant to the
2nd Notification and consequently direct the 2nd respondent to follow the procedure contemplated under clause (f) of Annexure II of the A.P. Judicial Ministerial Service Rules, 1964 by preparing a list of approved candidates in pursuance of the 1st Notification in Notification No. 1/2003, dated 1-8-2003 before publication of Fresh list as per the impugned Notification and also consider the cases of the petitioners for appointment as per their respective marks obtained in the selection pursuant to the 1st Notification and allot similar posts mentioned in the 2nd notification to the 1st notification.

Counsel for the Petitioner : Sri T.LAKSHMI NARAYANA

Counsel for the Respondent : Smt. M.BHASKARA LAKSHMI

(SC FOR A.P.H.C.)

The Court made the following :

ORAL ORDER: (Per Hon'ble the Chief Justice)

Grievance of the petitioners is that respondents have not followed the A.P. Judicial Ministerial Service Rules, 1964 meticulously by including their names in the second list of candidates for which notification was issued on

30th October, 2003, and therefore, prejudice has been caused to them.

Facts may be stated in nutshell that on

01st August, 2003, for the vacancies, which were assessed upto 30th September, 2002, in the unit of Nellore, a notification was issued by the Principal District and Sessions Judge, Nellore. Petitioners obviously applied under the said notification for which written test was notified to be held on 07th December, 2003. Before the said written examination took place, respondent No.2 had, pursuant to instructions issued by the first respondent, assessed the vacancies upto 31st August, 2003 also and intimated the same to the first respondent. On 24th October, 2003, first respondent had accorded permission, and accordingly, fresh notification was issued on 30th October, 2003 for such of the vacant posts, which were assessed upto 31st August, 2003. Thus, the vacancies under first notification for the period upto 30th September, 2002 and under second notification upto

31st August, 2003 were notified. Petitioners applied under the first notification and appeared in the test, but were not successful, and one of the petitioners, who applied under the second notification also was not successful.

Learned counsel for the petitioners submits that Annexure-II lays down the manner of appointment by direct recruitment and points out that the names of such of the candidates included in the list, who have not been appointed in the service before publication of fresh list, shall, in the order in which they are placed in that list, be included and be placed at the top of the appropriate part of the fresh list, and if no fresh list is prepared, the current list containing only the names of unallotted candidates in the order in which they are arranged, shall be published as fresh list. He contends that respondent No.2 is bound to include the names of petitioners in the fresh list pursuant to the second notification at the top thereof. This submission absolutely has no force and even Clause (f) of Annexure-II of A.P. Judicial Ministerial Service Rules will not apply. Clause (c) in fact gives an indication as to how and why the names are to be included in the fresh list of the left-over candidates. Clause (c) says that the appointing authority, not later than 01st September every year, shall estimate the number of vacancies, which are expected to arise during the following year within their respective jurisdictions, and which are to be filled by direct recruitment, and not later than 1st December every year, draw up a list of the approved candidates of such number as may be considered necessary.

In the instant case, the vacancies notified were not estimated vacancies, but actual vacancies which had arisen and there was no need to have any wait list prepared. In the counter-affidavit filed by the Registrar General of High Court of Andhra Pradesh, it is clearly stated that the Government in G.O.Ms.No.544 General Administration

(Ser.A) Department dated 04-12-1998 issued orders dispensing with the maintenance and operation of waiting list and basing on the said Government orders, the High Court issued circular orders in ROC No.8/99-RC dated 25-01-1999 directing all the Unit Heads to adopt the

Ad hoc Rule issued in G.O.Ms.No.544 General Administration (Ser.A) Department dated 04-12-1998 in all future recruitments.

The contention of petitioners has no relevance since the practice of preparing wait list had been discontinued and there was no occasion for keeping the wait list alive. Even otherwise, no prejudice is caused to petitioners since they had not been successful in response to second notification also. Thus, there is no merit in the writ petition.

Writ Petition is accordingly dismissed.

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DEVINDER GUPTA, C.J.

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M.NARAYANA REDDY, J.

21-12-2004

bsc

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Registrar (Administration), High Court of A.P. Hyderabad.
2 The Principal District and Sessions Judge, Nellore District.

3. 2CD copies

*Form-NIC-OGS/WP{**RLD**}*